

PETITION AND STAFF REPORT

TO: City Council **REPORT DATE:** February 18, 2005

HEARING

DATE: March 7, 2005

FROM: Community Development Department
Hal Bergsma, Planning Services Manager
Alan Whitworth, Senior Planner

SUBJECT: South Beaverton Islands Annexation (ANX 2005-0001)

ACTIONS: Annexation to the City of Beaverton of 267 parcels located in islands in the southern part of Beaverton. The territory is shown on the attached maps and more particularly described by the attached legal description. The annexation of the territory is City initiated and is being processed under ORS 222.750 and Metro Code 3.09.050 as a legislative land use decision.

NAC: All of these parcels are currently within Neighborhood Association Committee (NAC) areas with two exceptions. The exceptions are the two areas north of Hall Blvd. and east of Scholls Ferry Road involving the Brightfield Village Condominium and the commercial area at Hall Blvd. and Oleson Road comprised of two tax lots (shown on Map 3). The Neighborhood Office recommends adding these areas to the Denney-Whitford NAC.

AREA: Approximately 89 acres

TAXABLE BM 50 ASSESSED VALUE: \$ 35,135,840

ASSESSOR'S REAL MARKET BUILDING VALUE: \$ 38,176,210

ASSESSOR'S REAL MARKET TOTAL VALUE: \$ 57,524,700

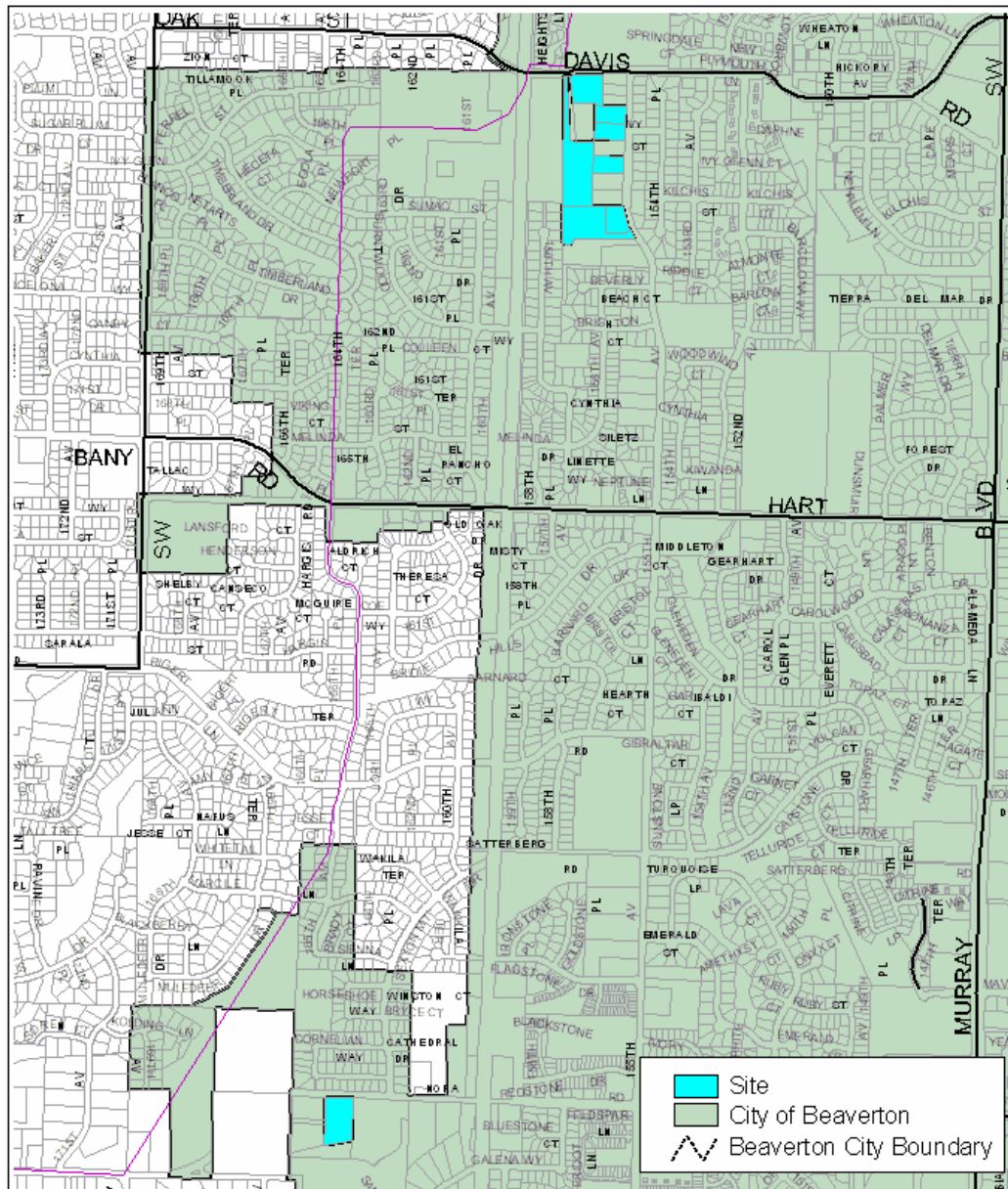
NUMBER OF TAX PARCELS: 267

RECOMMENDATION

Staff recommends the City Council adopt an ordinance annexing the referenced territory, adding three parcels not currently in a Neighborhood Association Committee (NAC) boundary to the Denney-Whitford NAC and withdrawing several parcels from the Tualatin Valley Water District effective thirty days after the Mayor's signature or the date the ordinance is filed with the Secretary of State as specified by ORS 222.180, which ever is later.

VICINITY MAP

MAP "1"



CITY OF BEAVERTON

South Beaverton Island Annexations

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/18/04

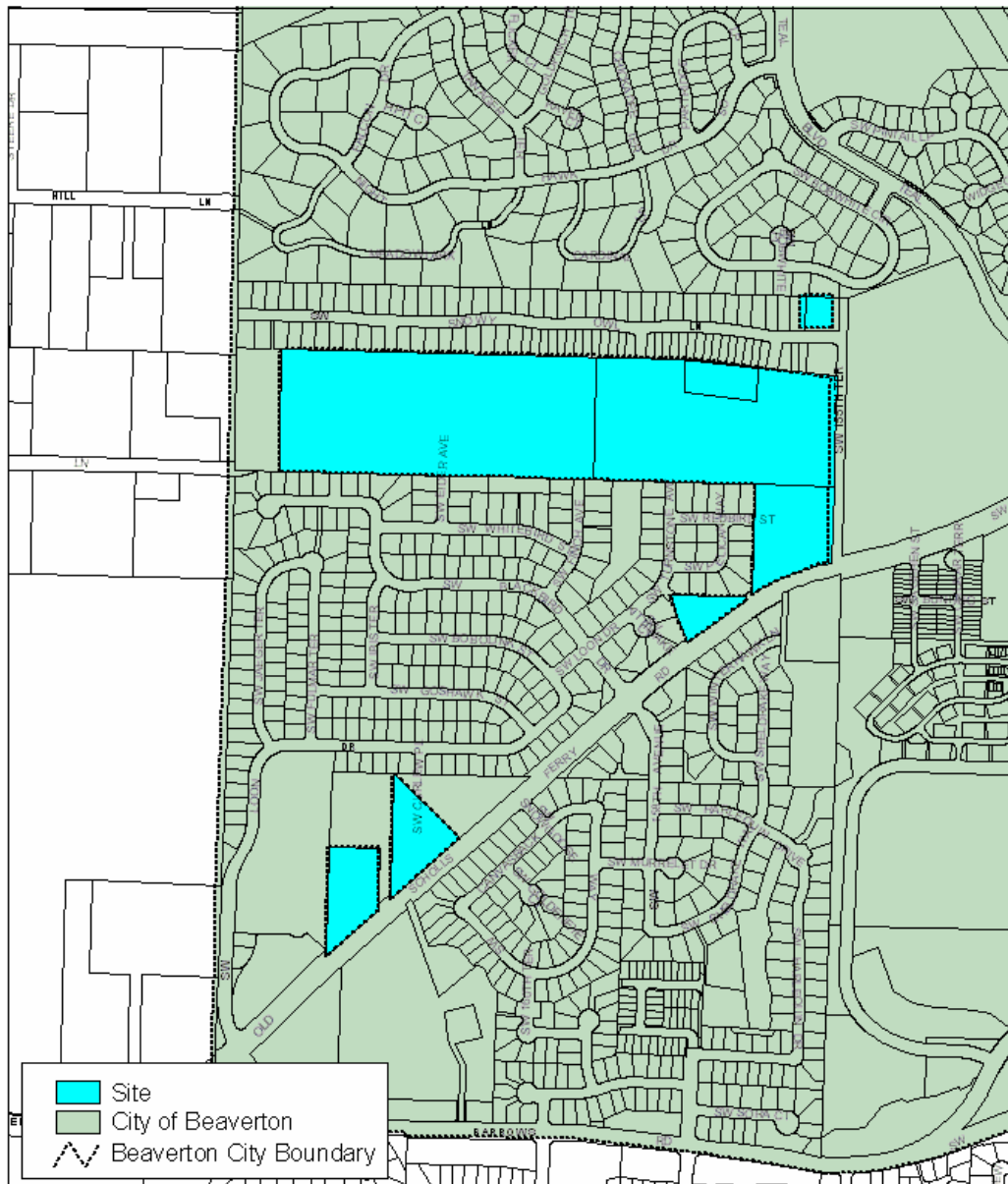
Map #
Various



ANX 2005-0001

VICINITY MAP

MAP "2"



South Beaverton Island Annexations

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/18/04

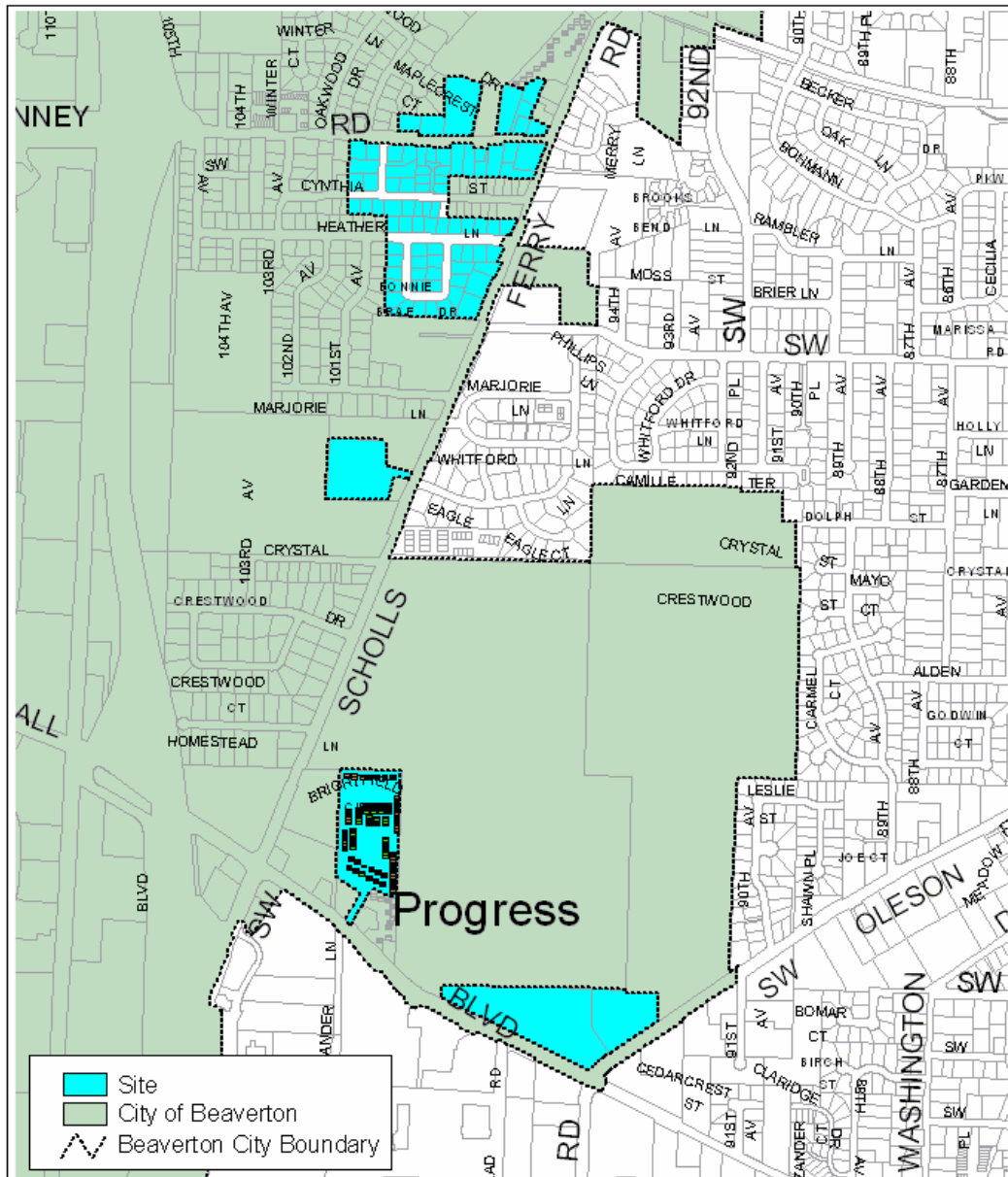
Map #
Various



ANX 2005-0001

VICINITY MAP

MAP "3"



CITY OF BEAVERTON

South Beaverton Island Annexations

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/18/05

Map #
Various



ANX 2005-0001

BACKGROUND

This is commonly referred to as an Island Annexation that is being processed under Oregon Revised Statutes Section 222.750 and Metro Code Chapter 3.09.

ORS 222.750 Annexation of unincorporated territory surrounded by city. When territory not within a city is surrounded by the corporate boundaries of the city, or by the corporate boundaries of the city and the ocean shore or a stream, bay, lake or other body of water, it is within the power and authority of that city to annex such territory. However, this section does not apply when the territory not within a city is surrounded entirely by water. Unless otherwise required by its charter, annexation by a city under this section shall be by ordinance or resolution subject to referendum, with or without the consent of any owner of property within the territory or resident in the territory.

The subject properties are within islands defined by the City's corporate limits. The City has chosen to annex the subject properties and not others in the city that are in islands based on guidance provided by the City Council provided through their adoption of Resolution No. 3802 (Exhibit A) on January 24, 2005.

ORS 222.120 requires a public hearing to allow the electors of the City to appear and be heard on the question. It requires notice to be published in a newspaper of general circulation for a period of two weeks and notice to be posted in four public places in the city for a similar period.

Metro Code Section 3.09.030 does not require a public hearing but does require waterproof posting of the notice in the general vicinity of the site and publishing notice in a newspaper of general circulation. The required notice to necessary parties and the posting are to be done at least 45 days prior to the date of decision. 3.09.050(b) requires the staff report to be available at least 15 days prior to the date of decision.

The request is to annex 267 tax parcels located in islands in the southern part of the City of Beaverton. The area proposed for annexation is approximately 74 acres.

Most of these parcels are currently within the Neighborhood Association Committee (NAC) boundaries. The exceptions are the two areas north of Hall Blvd. and east of Scholls Ferry Road involving the Brightfield Village Condominium development and the commercial area at Hall Blvd. and Oleson Road comprised of two tax lots (involving tax lot numbers 1S126BC90000, 1S126CA01200 and 1S126DB02700 that are shown on Map 3). The Neighborhood Office is recommending that these areas be added to the Denney-Whitford NAC.

MINIMUM REQUIREMENTS FOR PETITIONS

The following is from Metro Code:

3.09.040 Minimum Requirements for Petitions

(a) A petition for a boundary change shall be deemed complete if it includes the following information:

(1) The jurisdiction of the approving entity to act on the petition;

Finding: As defined by section 3.09.020(c) of the Metro Code, “Approving entity” means the governing body of a city, county, city-county or district authorized to make a decision on a boundary change, or its designee. ORS 222.111(2) states:

“A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by petition to the legislative body of the city by owners of real property in the territory to be annexed.”

The Beaverton City Council directed the initiation of this annexation by its adoption of Resolution No. 3802 (Exhibit A). This annexation is allowed by ORS 222.750 without the consent of any owner of property within the territory or resident in the territory through ordinance adoption by the Council, subject to referendum.

(2) A narrative, legal and graphical description of the affected territory in the form prescribed by Metro Chief Operating Officer;

Finding: The Metro Chief Operating Officer has not prescribed a particular form for providing a narrative, legal and graphical description of a territory that would be affected by a proposed annexation. The practice has been to provide such information in a form prescribed by the State Department of Revenue. Consistent with Department of Revenue requirements, maps of the affected territory are included as pages three to five of this petition/report, a narrative legal is attached to this petition/report (Exhibit B), and marked tax maps are in the project file. This complies with the requirements of Metro, the Oregon Department of Revenue, and the Oregon Secretary of State’s Office.

(3) For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected

territory as shown in the records of the tax assessors and county clerk;

Finding: A list of the names and mailing addresses of all persons owning property (Exhibit C) and a list of all electors within the affected territory as shown in the records of the Washington County Assessment and Taxation Department (Exhibit D) are in the file.

- (4) A listing of the present providers of urban services to the affected territory;

Finding: According to Metro Code Section 3.09.020(m), “ ‘Urban services’ means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.” Sanitary sewers lines are presently provided by and maintained by the City of Beaverton and Clean Water Services. Treatment is provided by Clean Water Services. Potable water is presently provided by the Tualatin Valley Water District and the City of Beaverton. Fire protection and emergency medical service is presently provided by Tualatin Valley Fire and Rescue. Parks, open space, and recreation services are presently provided by Tualatin Hills Park and Recreation District for those parcels that are in the District. Public streets and roads are presently maintained by Washington County (funding is provided by the Urban Road Maintenance District) and the City of Beaverton. Street lighting is provided by the Washington County Street Lighting District for those properties that are in the District. Mass transit is provided by TRI-MET.

- (5) A listing of the proposed providers of urban services to the affected territory following the proposed boundary change;

Finding: Pursuant to a July 1, 2004 intergovernmental agreement between the City of Beaverton and Clean Water Services, as of July 1, 2005 sanitary sewer pipes in the proposed annexation area that are smaller than 24-inches in diameter will be maintained by the City of Beaverton and pipes equal to or greater than 24-inches in diameter will be maintained by Clean Water Services. Clean Water Services will also provide sewage treatment. Potable water will be provided by the City of Beaverton or Tualatin Valley Water District, depending on the location of a subject property, pursuant to an intergovernmental agreement between the City and TVWD as interpreted by staff of the two jurisdictions. Fire protection and emergency medical service will be provided by Tualatin Valley Fire and Rescue. Parks, open space, and recreation services will be provided by Tualatin Hills Park and Recreation District for those parcels that are within the District. SW Scholls Ferry Road, SW Hall Blvd. and SW Oleson Road in the areas of

annexation are County maintained Arterials and will remain County maintained after annexation. SW Nora Road in the area of annexation is a City maintained Arterial and will remain City maintained after annexation. SW 155th Avenue, SW Davis Road and SW Denney Road are City maintained Collectors and will remain City maintained after annexation. Maintenance of all public local streets in the areas being annexed, which are not currently maintained by the City, will transfer to the City of Beaverton through a different process. The City of Beaverton will maintain all public street lights in the areas being annexed. Mass transit will continue to be provided by TRI-MET.

(6) The current tax assessed value of the affected territory; and

Findings: The current Ballot Measure 50 assessed value of the affected territory is \$35,135,840. A spreadsheet listing tax lot identification number, approximate acreage, Ballot Measure 50 value, real market building value and total real market value is attached as Exhibit E. This information is based on information from the Washington County Assessment and Taxation Department.

(7) Any other information required by state or local law.

Findings: No other information is required by state or local law.

(b) A City or county may charge a fee to recover its reasonable costs to carry out its duties and responsibility under this chapter.

Findings: The City of Beaverton has chosen not to charge a fee for annexations.

EXISTING CONDITIONS

SERVICE PROVISION:

The following analysis details the various services available to the properties to be annexed. Cooperative, urban service and intergovernmental agreements affecting provision of service to the subject properties are:

- The City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Hills Park and Recreation District, Tualatin Valley Water District and Clean Water Services.

- The City has entered into an agreement with Tualatin Valley Water District that has been designated an ORS 195.065 Urban Service Agreement by the parties. (No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this decision.)
- The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services.
- The City has been a party to a series of ORS Chapter 190 intergovernmental agreements “for Mutual Aid, Mutual Assistance, and Interagency Cooperation Among Law Enforcement Agencies Located in Washington County, Oregon”, the last of which was signed by Beaverton Mayor Rob Drake on August 9, 2004. This agreement specifies the terms under which a law enforcement agency may provide assistance in response to an emergency situation outside its jurisdiction when requested by another law enforcement agency.
- On December 22, 2004 the City entered into an intergovernmental agreement with Washington County defining areas that the City may annex for ten years from the date of the agreement without opposition by the County. The properties proposed for annexation by this application are within those areas.

This action is consistent with those agreements.

POLICE: The property to be annexed currently receives police protection from the Washington County Enhanced Sheriff’s Patrol District. Sheriff’s protection will be withdrawn and the City will provide police service upon annexation. In practice whichever agency is able to respond first, to an emergency, does so in accordance with the mutual aid agreement described above.

FIRE: Tualatin Valley Fire & Rescue (TVF&R) provides fire and ambulance service to this area. The City annexed its own fire services to TVF&R in 1995. TVF&R is designated as the long-term service provider to this area.

SEWER: The area is adequately served by sanitary sewer at this time. As the area redevelops at higher density the issue of sanitary sewer will be dealt with through the development review process. If the area is annexed the City of Beaverton will take over maintenance of sanitary sewer pipes smaller than 24-inches in diameter and Clean Water Services will continue to maintain the larger pipes and provide sewage treatment. Upon annexation the City will be responsible for billing.

WATER: Tualatin Valley Water District (TVWD) or the City of Beaverton provide water service to the various areas. ORS 222.520 allows cities to assume water service responsibilities

when annexing less than an entire district. However, the City entered into an intergovernmental agreement with TVWD in 2002 that the City would only withdraw property, upon annexation, from the District that has been agreed to. In compliance with that agreement the City of Beaverton will withdraw the following parcels from the District: parcels identified on tax map 1S120BA as lots 01000, 01200, 01400, 01500 and 01700; tax map 1S120BD as lots 00100 and 00200; tax map 1S123BC as lots 00100 and 00200; tax map 1S123BD as lots 00800, 01000, 01200, 02800, 02900 and 03000; and tax map 1S129CB as lot 00700. See Exhibit F for further information regarding the withdrawal. TVWD or the City of Beaverton will provide service, maintenance and perform billing for the respective agreed to areas.

STORM WATER DRAINAGE: The area is adequately served by storm sewers and drainage at this time. As the area redevelops at higher density the issue of storm drainage will be dealt with through the development review process. After annexation maintenance and billing responsibility will transfer to the City.

STREETS and ROADS: NW Scholls Ferry Road, SW Hall Blvd. (in the area being annexed), and SW Oleson Road are County maintained Arterials and will remain County maintained for the foreseeable future. SW Nora Road is a City maintained Arterial and will remain City maintained. SW 155th Avenue, SW Davis Road and SW Denney Road are City maintained Collectors and will remain City maintained. All public local roads being annexed will become City maintained in the future through a different process.

SCHOOLS: The proposed annexation is within the Beaverton School District. Neither services nor district boundaries will be affected by the proposed annexation.

PARKS: Nine parcels included in this proposed annexation are not in the Tualatin Hills Park & Recreation District, but all of the remaining 258 parcels are in the District. Neither services nor district boundaries will be affected by the proposed annexation. The nine parcels not within the District have the option to be annexed to the District.

PLANNING, ZONING and BUILDING: Washington County currently provides long-range planning, development review and building inspection for the subject properties. Upon annexation, the City will provide those services. Pursuant to the Urban Planning Area Agreement

(UPAA) between the City and County, City Comprehensive Plan and Zoning Designations will be applied in a separate action.

PUBLIC INVOLVEMENT

Consistent with Metro Code Section 3.09.030, the City sent notice of the proposed annexation on December 22, 2004 (more than 45 days prior to the hearing date) to all necessary parties including Washington County, Metro, affected special districts and County service districts. Additionally, fifteen weatherproof signs with the notice mailed to the necessary parties attached were posted in the general vicinity of the affected territory. Affidavits of mailing and posting, including information on the locations where the weatherproof signs were posted, are in the case file for this proposed application.

In compliance with ORS 222.120, notice of the hearing will be published once each week for two successive weeks prior to the day of the hearing in the Beaverton Valley Times newspaper; and notices of the proposed annexation will be posted in four public places in the city (at the Beaverton Post Office, the Beaverton City Library, the Beaverton City Hall, and in the lobby of the administrative offices of the Tualatin Hills Park and Recreation District) for a like period. Evidence that this notification was provided will be available at the public hearing.

Although not required by Metro Code or State statute, the City also sent the notice mailed to the necessary parties to the following parties at least 45 days in advance of the March 28, 2005 anticipated date of decision:

- the property owners of record in the subject area as shown on the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation; and
- The West Beaverton, Sexton Mountain, Neighbors Southwest and Denney/Whitford Neighborhood Association Committees and the Aloha/Reedville/Cooper Mountain, West Slope/Raleigh Hills/Garden Home and Metzger Citizen Participation Organizations; interested parties as set forth in City Code Section 9.06.035.

The mailed notice and a copy of this petition/staff report will be posted on the City's web page.

CRITERIA FOR APPROVAL

REGIONAL ANNEXATION CRITERIA:

In December 1998 the Metro Council adopted Metro Code Section 3.09 (Local Government Boundary Changes). Metro Code Section 3.09.050 includes the following minimum criteria for annexation decisions of this type:

3.09.050 Uniform Hearing and Decision Requirements for Final Decisions Other Than Expedited Decisions

(a) The following minimum requirements for hearings on decisions operate in addition to all procedural requirements for boundary changes provided for under ORS chapters 198, 221 and 222. Nothing in this chapter allows an approving entity to dispense with a public hearing on a proposed boundary change when the public hearing is required by applicable state statutes or is required by the approving entity's charter, ordinances or resolutions.

Findings: A public hearing has been scheduled and noticed for March 7, 2005.

3.09.050 (b) Not later than 15 days prior to the date set for a decision, the approving entity addresses the criteria in subsections (d) and (g) below, and that includes at a minimum the following:

(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;

Findings: Urban Services are defined by Metro Code Section 3.09.020(m) as "...sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit." These areas are currently served by sanitary sewers. As of July 1, 2005, the City of Beaverton will take over maintenance of all pipes less than 24-inches in diameter pursuant to an "Intergovernmental Agreement between the City of Beaverton and Clean Water Services" entered into as of July 1, 2004. These areas are served by Tualatin Valley Water District or the City of Beaverton and there is adequate capacity to continue providing potable water to these areas. Fire protection is provided by Tualatin Valley Fire and Rescue which is the provider for the entire City of Beaverton and they have the capacity to serve the area. Parks, open space and recreation are provided by the Tualatin Hills Park and Recreation District which will continue to provide those services for those parcels that are within the District. The areas are served by SW Scholls Ferry Road, SW Hall Blvd., SW Oleson Road and SW Nora Road which are classified as Arterials. SW 155th Avenue, SW Davis Road and SW Denney Road are classified as Collectors. The areas being annexed are also served by the following local roads; SW 155 Terrace, SW Cynthia Street, SW Snowy Owl Lane, SW Heather Lane, SW Bonnie Lane, SW Brae

Drive, SW 100th Terrace and SW 99th Place. The road system is adequate to handle current development. The impacts of new development proposals will be addressed in the development review process. TRI-MET provides bus service to the area.

- (2) A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;

Findings: The City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Hills Parks and Recreation District, Tualatin Valley Water District and Clean Water Services. These agreements follow a standard format, and prescribe coordination of the planning and development activities of the parties through notification to provide each with the opportunity to participate, review and comment on proposed comprehensive plan and land use regulation amendments and development actions requiring individual notice to property owners, as well as other specified activities. Annexations are not listed as actions that require notification of the other parties to the cooperative agreements. In fact, annexations are defined as not being development actions or land use regulation amendments. Therefore, the ORS Chapter 195 cooperative agreements listed above do not appear to be relevant to this proposed annexation.

The City has entered into an agreement with Tualatin Valley Water District that has been designated an ORS 195.065 Urban Service Agreement by the parties. The agreement defines long-term service areas for each party, independent of whether the area is in or outside the City. Some of the subject areas are defined as being within TVWD's long-term service area and some of the areas are in Beaverton's long-term service area. In furtherance of that agreement several parcels will be withdrawn from TVWD. As previously noted, On December 22, 2004 the City entered into an intergovernmental agreement with Washington County, titled the "Beaverton-Washington County Intergovernmental Agreement Interim Urban Services Plan" defining areas that the City may annex for ten years from the date of the agreement without opposition by the County, and referencing ORS 195.065(1). The properties proposed for annexation by this application are within those areas. No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this proposed annexation.

The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services, which was updated as of July 1, 2004.

Exhibit 'A' to the new agreement defines subject areas as being within the "Beaverton Area of Assigned Service Responsibility" where, subsequent to annexation, specified maintenance responsibilities for sanitary sewer lines under 24 inches in diameter and for certain storm drainage facilities and surface water management functions would transfer to the City of July 1 of any year if so requested by the City by January 1 of that year. A letter from Gary Brentano, Director of the Beaverton Operations Department, to Robert Cruz, Deputy General Manager of Clean Water Services dated December 21, 2004 notes that the City is engaged in efforts to annex a number of islands within City boundaries that are expected to continue into 2005, and that the City wishes to provide service to all areas annexed by the City by July 1, 2005. According to Mr. Brentano, subsequent discussions with Clean Water Services staff members confirm that sanitary sewers less than 24" in diameter and the storm drainage system in the areas proposed for annexation by this application will become the City's maintenance responsibility as of July 1 of 2005 if the proposed annexation is approved.

(3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;

Findings:

Comprehensive Plans: *The only relevant policy of the City of Beaverton's Comprehensive Plan is Policy 5.3.1.d, which states "The City shall seek to eventually incorporate its entire Urban Services Area." The subject territory is within Beaverton's Assumed Urban Services Area, which is Figure V-1 of the City of Beaverton's Acknowledged Comprehensive Plan.*

After reviewing the Washington County Comprehensive Framework Plan for the Urban Area on the County's web site (reflecting changes through County Ordinance No. 598) as well as ordinances adopted subsequently up to the date of this staff report that amended the Comprehensive Framework Plan, staff finds that the following provisions may be applicable to this proposed annexation:

- ***A paragraph in the "County-Wide Development Concept" at the beginning of the Comprehensive Framework Plan which states:***

As development occurs in accordance with this development concept, issues of annexation or incorporation may arise. Annexation or incorporation issues will necessarily relate to various other planning issues such as community identity,

fiscal impacts of growth and service provision, coordination between service providers to achieve efficiencies and ensure availability, etc. As such issues arise; the County should evaluate community identity as an issue of equal importance with public service provision issues when developing policy positions on specific annexation or incorporation proposals.

Staff views this statement as direction to the County itself in how to evaluate annexation proposals, and not guidance to the City regarding this specific proposal. As a necessary party, the County has an opportunity to comment on and appeal this proposed boundary change if it appears at the scheduled March 7, 2005 hearing on the proposal and states reasons why they believe the boundary change is inconsistent with the approval criteria (see Metro Code section 3.09.050(c)).

- ***Policy 15 of the Comprehensive Framework Plan, relating to Roles and Responsibilities for Serving Growth, says:***

It is the policy of Washington County to work with service providers, including cities and special service districts, and Metro, to ensure that facilities and services required for growth will be provided when needed by the agency or agencies best able to do so in a cost effective and efficient manner.

Two implementing strategies under Policy 15 that relate to annexation state:

The County will:

- f. If appropriate in the future, enter into agreements with service providers which address one or more of the following:*
 - 3. Service district or city annexation*
- g. Not oppose proposed annexations to a city that are consistent with an urban service agreement or a voter approved annexation plan.*

The City of Beaverton, Washington County and the other urban service providers for the subject area have been working off and on for several years to arrive at an urban service area agreement for the Beaverton area pursuant to ORS 195.065 that would be consistent with Policy 15 and the cited implementing strategies. Unfortunately, although most issues have been resolved, a few issues remain between the County and the City that have prevented completion of the agreement. These issues do not relate to who provides services or whether they can be provided when needed in an efficient and cost effective manner so much as how the transfer of service provision responsibility occurs, particularly the potential transfer of employees and equipment from the County to the City. As previously noted the County and the City have entered into an intergovernmental agreement

that sets an interim urban services plan area in which the County commits to not oppose annexations by the City. Staff has reviewed other elements of the County Comprehensive Plan, particularly the three relevant Community Plans that includes the subject properties, and was unable to identify any provision relating to this proposed annexation. None of the subject properties are in areas of Special Concern.

Public Facilities Plans: The City's public facilities plan consists of the Public Facilities and Services Element of the Comprehensive Plan, the Transportation Element of the Comprehensive Plan, the City's Capital Improvements Plan, and the most recent versions of master plans adopted by providers of the following facilities and services in the City: storm water drainage, potable water, sewerage conveyance and processing, parks and recreation, schools and transportation. Where a service is provided by a jurisdiction other than the City, by adopting the master plan for that jurisdiction as part of its public facilities plan, the City has essentially agreed to abide by any provisions of that master plan. The only relevant urban services defined by Metro Code Section 3.09.020(m) that will change subsequent to annexation are the maintenance of sanitary sewer lines under 24" in diameter, the maintenance of roads, and the agreed upon withdrawal of several parcels from the Tualatin Valley Water District.

The change in sanitary sewer line maintenance is consistent with the aforementioned IGA between the City and Clean Water Services, which in turn is consistent with facilities master plans of both agencies.

The change in road maintenance is not specifically prescribed by any element of the Beaverton Comprehensive Plan or the Washington County Comprehensive Plan, but an understanding in 2002 between the Manager of the Washington County Operations Division, which currently maintains local, collector and arterial roads through the County's Urban Road Maintenance District, and the Director of the City's Operations Department, generally defines the conditions under which the City would assume maintenance responsibility subsequent to annexation. The proposed annexation should not adversely affect the Urban Road Maintenance District. Although revenues received by the District may be reduced slightly as a result of the annexation, the District's maintenance costs will also be reduced by the City assuming road maintenance in the areas. Policy 6.2.7(g) of the City's Comprehensive Plan is to "Provide adequate funding for maintenance of the capital investment in transportation facilities." According to the Transportation Element of the Comprehensive Plan (page VI-62), the majority of the City's gas tax revenues are used for maintenance. "The City's pavement management program tracks pavement condition so that repairs can be made at an optimum time in pavement life. Pavement

management projects are scheduled and funded through the City's capital improvement plan."

Staff could not identify any provisions in the Washington County Public Facilities Plan relevant to this proposed annexation.

The regional framework plan, functional plan, and regional urban growth goals and objectives: These Metro documents do not specifically address minor boundary changes of this type.

The Washington County – Beaverton Urban Planning Area Agreement: Adopted in 1989, this agreement does not contain provisions relating to annexations, other than (1) calling for execution of a memorandum of understanding outlining the methodology for transferring County records regarding land use activities to the City after annexation; (2) calling for execution of a memorandum of understanding outlining responsibilities for collection of fees, inspections and drainage districts on platted subdivisions annexed to the City; and (3) prescribing that when the City applies plan and zoning designations subsequent to annexation that a table in the agreement be followed in determining which to apply based on existing County designations, or that the most similar designation be applied. The City has drafted a memorandum of understanding on records transfer and submitted it to the County consideration, and the City will also enter into a memorandum of understanding regarding fees collection and inspections if necessary (drainage maintenance districts are no longer used by Washington County). It has been the City's practice in the past to comply with the provision relating to the application of City plan and zone designations, through a subsequent process that will be done in this case if the area is annexed.

As discussed previously in this report, this annexation is consistent with all other agreements that the City is party to relating to annexations.

(4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

Findings: The affected territory will be withdrawn from the Enhanced Sheriff's Patrol District (ESPD), the Urban Road Maintenance District (URMD), and those properties that are in the Street Lighting District will be withdrawn from the District. In addition, parcels identified on tax map 1S120BA as lots 01000, 01200, 01400, 01500 and 01700; tax map 1S120BD as lots 00100 and 00200; tax map 1S123BC as lots 00100 and 00200; tax map 1S123BD as lots 00800, 01000, 01200, 02800, 02900 and 03000; and tax map

1S129CB as lot 00700 are to be withdrawn from the Tualatin Valley Water District. The subject territory will not be withdrawn from the legal boundary of any other necessary party by this action.

(5) The proposed effective date of the decision.

Findings: The effective date for this annexation is thirty (30) days after the Mayor's signature on the ordinance or the date the records of the annexation are filed with the Secretary of State (ORS 222.180), which ever is later.

3.09.050 (c) In order to have standing to appeal a boundary change to Section 3.09.070 a necessary party must appear at the hearing in person or in writing and state reasons why the necessary party believes the boundary change is inconsistent with the approval criteria. A necessary party may not contest a boundary change where the boundary change is explicitly authorized by an urban services agreement adopted pursuant to ORS 195.065. At any public hearing, the persons or entities proposing the boundary change shall have the burden to prove that the petition meets the criteria for a boundary change.

Findings: This section of Metro Code is included in this report for information only. It is not a criterion for decision. The City of Beaverton is the entity proposing this boundary change, and acknowledges that it has the burden to prove that the petition meets relevant criteria. The purpose of this petition/staff report is to prove that the relevant criteria for a boundary change under Metro Code have been met.

3.09.050 (d) An approving entity's final decision on a boundary change shall include findings and conclusions addressing the following criteria:

(1) Consistency with directly applicable provisions in an urban services provider agreement or annexation plan adopted pursuant to ORS 195.065;

Findings: Existing agreements relevant to this annexation are discussed in findings above addressing Section 3.09.050(b)(2) of the Metro Code. The City has not yet entered into an urban services provider agreement under ORS 195.065 that relates to all potential urban service providers in and around the city, although discussions with other urban services providers on the content of an agreement have occurred sporadically over the last several years, and the City has proposed an agreement that is acceptable to most of the parties. Because a comprehensive urban service agreement has not been completed, it is not possible to consider adoption of an annexation plan. The City has entered into two agreements that reference ORS 195.065 with Tualatin Valley Water District and Washington County and this proposed

action is consistent with those agreements, as explained in the findings above addressing Metro Code Section 3.09.050(b)(2).

(2) Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party;

Findings: The acknowledged Washington County – Beaverton Urban Planning Area Agreement (UPAA) does not contain provisions directly applicable to City decisions regarding annexation. As explained previously in this report, in findings addressing Metro Code Section 3.09.050(b)(3), the UPAA does address actions to be taken by the City after annexation, including annexation related Comprehensive Plan Land Use Map amendments and rezones. These actions will occur through a separate process. Findings discussing other relevant agreements, and demonstrating that the proposed annexation is consistent with those agreements, are located in the findings of this report addressing Metro Code Section 3.09.050(b)(2).

(3) Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans;

Findings: The City of Beaverton Comprehensive Plan Policy 5.3.1.d states: “The City shall seek to eventually incorporate its entire Urban Services Area.” The subject property is within Beaverton’s Assumed Urban Services Area and annexing it furthers this policy. There are no other specific directly applicable standards or criteria for boundary changes in Beaverton’s Comprehensive Plan, Washington County’s Comprehensive Plan, or the Public Facilities Plans of either jurisdiction and, therefore, this criterion is met.

(4) Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan;

Findings: The Regional Framework Plan (which includes the RUGGOs and the Urban Growth Management Functional Plan) does not contain policies or criteria directly applicable to annexation decisions of this type.

(5) Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services;

Findings: The Existing Conditions section of this petition/staff report contains information addressing how the provision of public facilities and services to the subject area would be affected by this annexation. As noted previously in this report, only three legally relevant urban services would change as a result of the proposed annexation, the maintenance of sanitary sewer pipes under 24" in diameter, the maintenance of roads in the area, and the provision of potable water for parcels identified on tax map 1S120BA as lots 01000, 01200, 01400, 01500 and 01700; tax map 1S120BD as lots 00100 and 00200; tax map 1S123BC as lots 00100 and 00200; tax map 1S123BD as lots 00800, 01000, 01200, 02800, 02900 and 03000; and tax map 1S129CB as lot 00700. The City would also assume primary responsibility for police protection, maintenance of storm drainage facilities, maintenance of street lights, and planning, development review and building permit issuance.

The City has sufficient staff and budgetary resources to accommodate the provision of the public facilities and services, for which it would be responsible, to the subject area. The City's 2004-2005 Fiscal Year (FY) tax rate is approximately \$4.10 per thousand dollars of assessed property value, including the tax rate for bonded debt. The FY 2004-2005 tax rate, excluding bonded debt, is \$3.68 which is less than the City's authorized tax rate of \$4.62 authorized under State Ballot Measure 50 in 1997. This allows the City to generate more property tax revenues if needed to provide public facilities and services in a timely and orderly manner. The Beaverton City Council, however, is careful to balance the need to provide city facilities and services at an adequate level with the need to be good stewards of the taxpayers' money. The City Council has set eight goals for the City. Three of those goals that are relevant to this discussion are:

- Use City resources efficiently to ensure long-term financial stability;*
- Continue to plan for, improve and maintain the City's infrastructure;*
and
- Provide responsive, cost effective service to the community.*

One service that the City is especially concerned about providing at a high level is police protection. As a result of the passage of City Ballot Measure 34-52 in 1996, the City has maintained a ratio of approximately 1.5 police officers per thousand population. This contrasts with a ratio of approximately 1.0 officers per thousand population in the County's Enhanced Sheriff's Patrol District (ESPD), which presently encompasses the subject areas. Partly because of this higher number of police officers per thousand population, in addition to other factors such as the present location of several high value industrial and commercial properties just outside the city but in the ESPD and the Urban Road Maintenance District (URMD), the City's tax rate is higher than the rate presently paid to those

special districts. After annexation, area property owners would pay approximately \$2.72 more per thousand dollars in assessed valuation than they presently do, based on FY 2004-2005 tax rates. A decrease in the differential is possible in future years if higher value properties are annexed to the City and removed from the ESPD and URMD.

Based on the above information, staff concludes that the proposed annexation will not interfere with the timely, orderly and economic provision of public facilities and services, and that the City is financially able to provide the urban services that it will take over from CWS and the County. Staff is not aware of any evidence that such a takeover will interfere with County's ability to continue to provide those services to areas remaining within the jurisdiction of the County's Urban Road Maintenance District or Enhanced Sheriff's Patrol District.

(6) The territory lies within the Urban Growth Boundary; and

Findings: The property lies within the Urban Growth Boundary.

(7) Consistency with other applicable criteria for the boundary change in question under state and local law.

Findings: OAR 660-001-0310 states "A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) shall be considered by Land Conservation and Development Commission to have been made in accordance with the goals..." Compliance with the Comprehensive Plan was addressed under criterion number (3) above. The applicable Comprehensive Plan policy cited under criterion number (3) above was acknowledged pursuant to Department of Land Conservation and Development Order 001581 on December 31, 2003, meaning it became unnecessary for the City to address the Statewide Planning Goals after that date in considering proposed annexations. There are no other criteria applicable to this boundary change in State Law or local ordinances. The City of Beaverton does have Annexation Policies (Exhibit G to this Petition/Staff Report) adopted by resolution and this proposed annexation is consistent with those policies. Staff finds this annexation with no associated development or land use approvals is consistent with State and local laws for the reasons stated above.

3.09.050 (e) When there is no urban service agreement adopted pursuant 195.065 that is applicable, and a boundary change decision is contested by a necessary party, the approving entity shall also address and consider, information on the following factors in determining whether the proposed boundary change meets the

criteria of Sections 3.09.050(d) and (g). The findings and conclusions adopted by the approving entity shall explain how these factors have been considered.

Findings: There is no permanent comprehensive urban service agreement adopted pursuant to ORS 195.065 that is applicable to this area. At the time this staff report was completed, however, no necessary party had contested the proposed annexation. Nevertheless, staff has chosen to briefly address each of the applicable factors below, reserving the right to supplement the findings for each factor if the boundary change decision is contested by a necessary party.

- (1) The relative financial, operational and managerial capacities of alternative providers of the disputed urban services to the affected area;

Findings: Metro Code [3.09.020(m)] and Oregon Revised Statutes 195.065(4) defines "Urban Services" as meaning sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. The providers of these urban services are not in dispute for the area proposed for annexation if the annexation and the withdrawal of several parcels from TVWD are approved, and there is no evidence that their financial, operational and managerial capacities to serve the area are inadequate.

- (2) The quality and quantity of the urban services at issue with alternative providers of the urban services, including differences in cost and allocations of costs of the services and accountability of the alternative providers;

Findings: The only providers of legally relevant urban services that will change as a result of this proposed annexation are providers of maintenance of sanitary sewers and local roads and water service. Sanitary sewer maintenance responsibility for pipes smaller than 24 inches in diameter will shift from Clean Water Services to the City's Operations Department. Maintenance of local roads in the area will be transferred, by separate action, from the Washington County Department of Land Use and Transportation to the City's Operations Department. Potable water for parcels identified on tax map 1S120BA as lots 01000, 01200, 01400, 01500 and 01700; tax map 1S120BD as lots 00100 and 00200; tax map 1S123BC as lots 00100 and 00200; tax map 1S123BD as lots 00800, 01000, 01200, 02800, 02900 and 03000; and tax map 1S129CB as lot 00700 will transfer to the City of Beaverton. There is no evidence that the quality or quantity of these services will be reduced as a result of the proposed annexation, or that there will be significant differences in their cost, allocation of costs or the accountability of the alternative providers.

(3) Physical factors related to the provision of urban services by alternative providers;

Findings: *As noted above, the only providers of legally relevant urban services that will change as a result of this proposed annexation are providers of maintenance of sanitary sewers and roads and water service. There is no evidence of physical factors that would adversely affect the City's ability to provide these services as compared to the present providers.*

(4) For proposals to create a new entity the feasibility of creating the new entity.

Findings: *No new entity is proposed and this criterion is not applicable.*

(5) The elimination or avoidance of unnecessary duplication of facilities;

Findings: *The City of Beaverton has previously taken action to eliminate and avoid the unnecessary duplication of facilities. Beaverton has annexed itself to the Tualatin Valley Fire and Rescue District because it was determined that the District could provide services and operate its facilities at a higher economy of scale. For the same reason, virtually all of Beaverton is in the Tualatin Hills Park and Recreation District. Beaverton is part of Washington County Cooperative Library System, allowing use of the City's highly rated library by all county residents, and use of other library facilities in the county by City residents. As previously discussed, pursuant to an intergovernmental agreement the City works cooperatively with Clean Water Services to maintain sanitary sewer pipes less than 24" in diameter within the City limits as well as to maintain certain storm water management facilities. The City of Beaverton is a member of the Joint Water Commission (JWC), an intergovernmental group whose members also include Hillsboro, Forest Grove, and the Tualatin Valley Water District, which has jointly developed and operates water reservoirs and transmission lines. This proposed annexation will not create any duplication of facilities.*

(6) Economic, demographic and sociological trends and projections relevant to the provision of the urban services;

Findings: *Washington County has placed several different zoning designations on these properties. These designations were determined after studying the economic, demographic and sociological trends and the infrastructure capacity. The City has previously cooperated with the County and other affected local governments in planning for this area's projected growth and development. There is no evidence that the City of*

Beaverton will be unable to provide the urban services as already planned for by the City and County. Washington County's designations will remain on these parcels until the City converts them to the City of Beaverton's most similar designations as set forth in the Urban Planning Area Agreement.

(7) Matching the recipients of tax supported urban services with the payers of the tax;

Findings: The Beaverton Police Department responds to emergency calls outside of the City limits. Beaverton provides approximately 1.5 police officers per 1,000 population compared to Washington County's Enhanced Sheriff Patrol District which provides approximately 1.0 deputies per 1,000 population. The City is providing police protection to these unincorporated islands and receiving no revenues in return. This annexation will provide tax revenues to support this service.

(8) The equitable allocation of costs to alternative urban service providers between new development and prior development; and

Findings: As explained above, as a result of the proposed annexation the City will take over maintenance of public local roads and sanitary sewer pipes under 24-inches in diameter, and become the water provider for several lots. No other relevant urban service providers will change. Washington County will have to bring County maintained local roads up to an agreed to standard, if they are not currently, before the City will accept maintenance responsibility. There is no evidence that the changes in service provision that would result from the proposed annexation will result in an inequitable allocation of costs to the previous service providers of the specified services and the City between new development and prior development.

(9) Economies of scale.

Findings: The City of Beaverton's current boundaries create an inefficient situation for provision of urban services. The City of Beaverton believes it is the logical provider of services for its assumed urban service area, including the area that is the subject of this proposed annexation. There is no evidence that the City cannot offer the services for which it will be responsible in the area after annexation at an economy of scale that meets or exceeds that which is available to present service providers.

(10) Where a proposed decision is inconsistent with an adopted intergovernmental agreement, that the decision better fulfills the criteria of Section 3.09.050(d) considering Factors (1) through (9) above.

Findings: There is no evidence that the proposed annexation of the subject territory is inconsistent with the various intergovernmental agreements relating to annexation that the City of Beaverton is party to.

3.09.050 (f) A final boundary change decision by an approving entity shall state the effective date, which date shall be no earlier than 10 days following the date that the decision is reduced to writing, and mailed to all necessary parties. However, a decision that has not been contested by any necessary party may become effective upon adoption.

Findings: The effective date for this annexation is recommended to be 30 days after the mayor signs an ordinance adopted by the City Council approving the annexation or the date the ordinance is submitted to the Secretary of State, by Metro, as provided in ORS 222.180 and Metro Code 3.09.030(e), which ever is later.

3.09.050 (g) Only territory already within the defined Metro Urban Growth Boundary at the time a petition is complete may be annexed to a city or included in territory proposed for incorporation into a new city. However, cities may annex individual tax lots partially within and without the Urban Growth Boundary.

Findings: This criterion is not applicable to this proposed annexation because the territory in question has been inside of the Portland Metro Urban Growth Boundary since the boundary was created.

CONCLUSION

Based on the information and findings in this petition and staff report, staff concludes that the proposed annexation should be approved by the Council through adoption of a City ordinance.

Exhibits:

- A. Resolution No. 3802
- B. Legal Description
- C. List of Property Owners
- D. List of Electors
- E. A spreadsheet listing tax lot identification numbers, approximate acreage, Ballot Measure 50 value, real market building value and total real market value
- F. Memorandum Regarding Withdrawal of Territory from Tualatin Valley Water District
- G. Resolution No. 3785